

Dkt. 62430-A/JPW/AG

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Jane H. Morse and James A. Knowles
Serial No.: 09/904,380 Examiner: K. Horlick
Filed : July 12, 2001 Art unit: 1637
For : ROLE OF PPH1 GENE IN PULMONARY HYPERTENSION

1185 Avenue of the Americas
New York, New York 10036
December 9, 2003

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

COMMUNICATION IN RESPONSE TO
NOVEMBER 26, 2003 NOTICE OF NON-COMPLIANT AMENDMENT

This Communication is submitted in response to the November 26, 2003 Notice of Non-Compliant Amendment issued by the United States Patent and Trademark Office in connection with the above-identified application. A copy of the Notice is attached hereto as **Exhibit A**. A response to the November 26, 2003 Notice is due on December 26, 2003. Accordingly, this Communication is being timely filed.

On November 2, 2003, applicants filed an Amendment in Response to the May 2, 2003 Office Action and Petition for a Three-Month Extension of Time. The November 2, 2003 Amendment was received on November 6, 2003 in the U.S. Patent and Trademark Office. A Notice of Non-Compliant Amendment was subsequently issued from the Patent Office on November 26, 2003. The November 26, 2003 Notice states that the Amendment filed on November 2, 2003 in connection with the above-identified application is considered non-compliant as it failed to meet the requirements of 37 C.F.R. §1.121, as amended on June 30,

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2003. The Notice further states that, in order to be compliant, the section of the November 2, 2003 Amendment containing the non-compliant provision must be resubmitted in its entirety.

In response to the Notice, applicants submit the Section entitled "Amendments to the Claims", attached hereto as **Exhibit B**, including the text of all claims not canceled, including withdrawn claims, in compliance with the requirements of §1.121. Please substitute the enclosed Section entitled "Amendments to the Claims", page 2 to 9, for the corresponding Section, page 2 to 9, in the Amendment filed November 2, 2003.

In view of the filing of the enclosed Section, applicants maintain that the Amendment filed November 2, 2003 with the new Section included constitutes their response to the outstanding May 2, 2003 Office Action and request that the Examiner reconsider the grounds of rejection set forth therein and allow the claims now pending as amended therein.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

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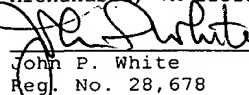
No fee is deemed necessary in connection with the filing of this Communication. However, if a fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

 12/9/03
John P. White Date
Reg. No. 28,678

62430-A

JPW



UNITED STATES PATENT AND TRADEMARK OFFICE

09/904380

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Paper No.

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 11/6/03 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following item(s) is required. **Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.** 37 CFR 1.121(h).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____
- ☐ 3. Amendments to the drawings: _____
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☒ B. The listing of claims does not include the text of all claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____

1mo 12/26/03
2mo 1/26/04
3mo 2/26/04
4mo 3/26/04
5mo 4/26/04
6mo 5/26/04
MPL

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

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If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is **not extendable**.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a **TIME PERIOD** of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. **The period for response to a final rejection continues to run from the date set in the final rejection**, and is not affected by the non-compliant status of the amendment.

TRACEY D. JOHNSON
PATENT ANALYST
Legal Instruments Examiner (LIE)

703306-2982
Telephone No.